

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX APPLICATION No 138 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER and
MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

COMMISSIONER OF INCOME-TAX

Versus

NITIN SHANTILAL PARIKH

Appearance:

MR MANISH R BHATT for Petitioner
MR NR DIVETIA for Respondent No. 1

CORAM : MR.JUSTICE C.K.THAKKER and
MR.JUSTICE M.C.PATEL

Date of decision: 12/08/98

ORAL JUDGEMENT

We have heard Mr. B.B. Nayak with Mr. M.R. Bhatt, learned counsel for the Revenue and Mr. N.R.Divetia, learned counsel for the assessee.

The decision of the Tribunal is based on interpretation of Section 2 (22) (e) of the Income-tax

Act, 1961. At various places, the tribunal has dealt with this question in the light of several decisions. In our opinion, therefore, the following question of law as proposed by the Revenue arises from the order of the Tribunal;

"Whether, the Appellate Tribunal is right in law and on facts in observing that the conditions prescribed under section 2 (22)(e) of the Act were not satisfied in the instant case and thereby deleting the addition made by the Assessing Officer treating the benefits taken from the company as deemed dividend ? "

The Tribunal is directed to refer the said question and furnish the statement of facts under Section 256 (2) of the Income-tax Act, 1961, expeditiously.

Rule made absolute accordingly. No order as to costs.

[C.K.Thakkar, J.]

[M.C. Patel, J.]

Amp/-